THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.19832 OF 2007

DATED: 20-09-2007

BETWEEN

Mohammad Yusuff,
S/o. Galib,
R/o. Near Hussan Baba Theatre,
Pedakurapadu (P & M),
Guntur District.

…PETITIONER

AND

The Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Treasuries and Accounts Department,
Hyderabad and two others.

…RESPONDENTS

ORDER:

Petitioner questions the action of the Tahsildar, Pedakurapadu Mandal, Guntur District – third respondent in issuing demand prior to attachment of land, in Form No.4 dated 30.08.2007, under Section 25 of the Revenue Recovery Act (for short 'the Act') demanding him to pay a sum of Rs.8,76,250/- being the arrears of revenue payable by him towards misappropriate Government funds, as per the directions of the Collector and District Magistrate, Guntur in R.C.No.1052/2007D1 dated 09.07.2007, he being the holder of RCC building bearing Door No.2-19 near Hussainbaba Theatre, Pedakurapadu Village, by requiring him to pay the amount within ten days.

2. Petitioner submits the worked as Sharaff in the Sub-Treasury Office, Pedakurapadu Mandal, Guntur District, after his retirement from military

service, during 1992 to 1997. While working so, departmental action has been taken against him for misappropriation of an amount of Rs.12,19,720/- and apart from that criminal action was also initiated. Insofar as criminal proceedings are concerned, charge sheet has been filed in Cr.No.13 of 1998 for the offence under Section 409 of the Indian Penal Code, 1860, which has been numbered as C.C.No.115 of 2004 on the file of the District Munsif Magistrate, Sattenapalli. Insofar as departmental action is concerned, it is stated that after issuing charge memo, enquiry was conducted and after submission of explanation, enquiry report was submitted holding that all the charges framed have been proved and he has been accordingly dismissed from service.

3. The Government passed orders in G.O.Rt.No.1286 Finance (ADMN I) Department dated 29.04.2003 holding that the Public Service Commission in its letter dated 04.04.2003 gave concurrence for the punishment as proposed and accordingly the punishment of dismissing the petitioner from service was passed apart from that it was decided that the misappropriated amount of Rs.12,19,270/- should be recovered from four delinquent officers by fixing relative responsibility to recover the same. Thereafter, the District Collector by his order in RC.No.1052/2007/D1 dated 09.07.2007 fixed the relative responsibility of the petitioner as Rs.8,76,250/-. I am of the opinion that without questioning order of the District Collector dated 09.07.2007 fixing the relative responsibility, the consequential recovery proceedings cannot be questioned by the petitioner.

4. Though it is stated that a review petition is pending against the order of the Government, I am of the opinion that as long as the order is not reviewed the recovery proceedings cannot be stayed. In view of the aforesaid facts and circumstances of the case, I do not see any merits in any of the contentions of the petitioner and that the petitioner is not entitled to any relief in this writ petition in which recovery proceedings of the Tahsildar in RC.No.104/2007-A dated 30.08.2007 alone has been questioned without

questioning the order of the District Collector dated 09.07.2007 as well as the Government order.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

September 20, 2007
DSK